United Nations S/2006/857

Security Council

Distr.: General
31 October 2006

Original: English

# Letter dated 31 October 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report of Ireland submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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## Annex

### Letter dated 25 October 2006 from the Permanent Representative of Ireland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I refer to your letter of 15 May 2006 and have the honour to forward to you the first report of the Government of Ireland concerning Ireland's implementation of the provisions of Security Council resolution 1624 (2005) (see enclosure).

Ireland attaches great importance to its compliance with the terms of resolution 1624 (2005) and would welcome any further comments or questions that you may have in relation to any of the items addressed in the report.

(*Signed*) David J. **Cooney**
Ambassador
Permanent Representative

**Enclosure**

**Ireland's implementation of**

**United Nations Security Council resolution 1624 (2005)**

**(Incitement to terrorism)**

**What measures does Ireland have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any are under consideration?**

Ireland has in place measures which prohibit by law incitement to commit a terrorist act or acts:

- Under common law it is an offence to incite another to commit a crime. This may be done by persuasion or by intimidation. The crime of incitement stands alone and does not depend on whether a substantive offence was committed;

- The possession, production and publication of any document which is, contains or includes a treasonable or seditious document (Sections 10, 11 & 12, Offences against the State Act 1939);

- Section 7 of the Criminal Law Act 1997 provides that any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be tried as the principal offender.

- The making of a threat to engage in a terrorist activity (Section 6, Criminal Justice (Terrorist Offences) Act 2005).

The Criminal Justice (Terrorist Offences) Act, 2005 implemented a number of international conventions and created new international, terrorist offences. The 2005 Act take existing offences, for example, murder, assault, poisoning, endangerment, false imprisonment, malicious damage offences, offences involving vehicles or aircrafts, explosives and firearms offences and offences relating to chemical, nuclear and other dangerous substances (the list of offences is set out in Schedule 2 of the Act) and establishes them as terrorist offences when committed with the intention of seriously intimidating a population, unduly compelling a government or an international organisation to perform or abstain from performing an act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a state or an international organisation.

The common law offence of incitement taken together with the offences created in the Acts cited above, and in particular, the Criminal Justice (Terrorist Offences) Act, 2005, makes it an offence for a person to incite another to commit any of the acts listed in Schedule 2 for the purposes described above.

**What measures does Ireland take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts.**

Ireland is entitled to refuse entry to, and deport from, the State any non-national in the interests of national security or public policy. It would be against the public policy of the State to grant safe haven to any person with respect to whom there is credible and relevant information giving serious reasons for considering they may have been guilty of incitement to commit a terrorist act and, accordingly, such a non-national can be refused entry or deported.

The terrorist conventions (International Convention Against the Taking of Hostages, Convention of the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, International Convention for the Suppression of Terrorist Bombings, Offences Against Internationally Protected Persons, International Conventions for the Suppression of the Financing of Terrorism) can form the basis for extradition to other contracting parties where there is no extradition treaty in place between them so that in those cases where the individual is present in the State he or she can, provided all of the requirements are met, be extradited to face the offences of which they are suspected.

Where a terrorist offence under the Criminal Justice (Terrorist Offences) Act, 2005 is committed outside the State then, if a request for extradition or surrender in order to proceed against the person concerned for such an offence is refused, and also in certain other special circumstances, the person concerned may be prosecuted in Ireland for the offences committed outside Ireland.

Where there are serious reasons for considering that an individual seeking asylum in the State has committed a serious non-political crime outside the State prior to entering the State or has been guilty of acts contrary to the purposes and principles of the United Nations, e.g. who has been guilty of acts covered by Resolution 1624 (2005), then, pursuant to the provisions of the Convention on the Status of Refugees, the individual may be excluded from the definition of "refugee" and, accordingly, be excluded from the process of seeking refugee status pursuant to Section 2 of the Refugee Act, 1996.

Further, if it is considered necessary in the interests of national security and public policy the State may decline to grant a declaration of refugee status and require the person concerned to leave the State. A person who is in the State as a refugee may have their status as refugee withdrawn under section 21 of the Refugee Act, 1996 and will thereupon be expelled from the State if their presence poses a threat to national security or public order.

The Garda Síochána (Ireland's National Police Force), which also acts as Ireland's national immigration service, operates extensive border control checks, including 'watch' and 'stop' lists, in respect of persons suspected of terrorist-related activity.

Ireland is a party to the 1957 Convention on Extradition, and has implemented the EU Framework Decision on the European Arrest Warrant. Any person resident in Ireland may be subject to extradition under the Extradition Act 1965 as amended (to countries other than EU member states), the European Arrest Warrant Act 2004, as amended (to EU member states) or under bilateral agreements with third States. In addition Ireland has ratified 12 UN anti-terrorism instruments which contain extradition provisions.

Citizenship and residency can be revoked where false documentation or false information has been provided in an application, and the person can be subject to deportation.

**How does Ireland cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?**

Ireland cooperates with other States in strengthening the security of its international borders through its membership of European and International Working Groups where policy on these issues is decided, and through bilateral and multilateral interaction in relation to the prevention of terrorist activity.

The security of the borders of the EU and further afield is addressed and strengthened on an ongoing basis through regular interaction with such agencies as FRONTEX, EUROPOL, INTERPOL and EUROJUST.

Ireland operates jointly with other states by placing officers at Ports of Entry in each others jurisdiction over specific periods of time, facilitating ease of communications and exchange of information. Officers have also been placed at hub airports in Member States to ensure a targeted approach to border control.

In relation to combating fraudulent travel documents, the Garda Síochána (Ireland's National Police Force) has established a Fraudulent Documents Unit, which acts as a Contact Point for liaison with Contact Points throughout Europe. All members attend training courses abroad organised by the European Union and regularly participate in European Union meetings on combating fraudulent documents. International contacts are also established and regular communication is maintained. In addition, Ireland is organising an international Immigration Fraud Conference to be held in late 2006 to further international cooperation in this area.

**What international efforts is Ireland participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?**

Following on from the first Interfaith Dialogue held in Bali in 2005, the second ASEM (Asia-Europe Meeting) Interfaith Dialogue which took place in Larnaca, Cyprus from 2 to 5 July 2006 looked at the issue of "Interfaith understanding and cooperation for a peaceful world".

Ireland, one of a number of co-sponsors of the Larnaca Dialogue, was represented in each of the three parallel Working Groups which discussed practical ways of achieving Interfaith Understanding, the role of Media in Promoting Interfaith Dialogue and the role of Religion in Multiethnic Societies.

Ireland's delegation to Larnaca was made up of a representative of the Embassy of Ireland to Cyprus, the ASEM Senior Official from the Department of Foreign Affairs and Mr. Patsy McGarry, The Irish Times Religious Affairs Correspondent, who participated in the Media Working Group.

Good progress on interfaith understanding was made during the Larnaca Dialogue, especially with regards to making concrete, practical recommendations, as reflected in the 12-point "Larnaca Action Plan on Interfaith Understanding and Cooperation for a Peaceful World."

**What steps is Ireland taking to counter incitement to terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?**

Terrorism is an area where prevention is very much better than cure. A key element of Ireland's approach at countering extremism and intolerance is the National Action Plan Against Racism (NPAR) which was launched on 27 January, 2005. The proposal for a NPAR arose from a commitment at the UN World Conference Against Racism in South Africa in 2001 that each member state of the United Nations should develop and implement a national action plan.

The NPAR is being implemented over a 4 year period (2005 - 2008). The emphasis is on "a whole of system approach" with particular emphasis on mainstreaming intercultural issues into formulation of public policy. The Plan builds on the substantial equality infrastructure which is already in place.

The framework underpinning the Plan is based on five objectives and is summarised as follows:

1. Effective protection and redress against racism, including a focus on discrimination, assaults, threatening behaviour, and incitement to hatred.

2. Economic inclusion and equality of opportunity, including a focus on employment, the workplace and poverty.

3. Accommodating diversity in service provision, including a focus on common outcomes, education, health, social services and childcare, accommodation and the administration of justice.

4. Recognition and awareness of diversity, including a focus on awareness raising in the media, the arts, sport and tourism.

5. Full participation in Irish society, including a focus on the political level, the policy level and the community level.

The overall aim of the NPAR is to provide strategic direction to combat racism and to develop a more inclusive, intercultural society in Ireland based on a commitment to inclusion by design, not as an add-on or afterthought and based on policies that promote interaction, equality of opportunity, understanding and respect.

On 14th July 2004, the Garda Siochána and the Police Service of Northern Ireland (PSNI) were successful in their application for funding under The European Union Peace II Programme to deliver a joint diversity training initiative in counties along the border regions of Ireland. The purpose of the programme was to provide diversity training to 1,200 members from both the Garda Siochána and the PSNI and its key aim was raise each participants' awareness of every individual's ability to stereotype, exclude and marginalize others, based on a human's perception of difference. Training Workshops aim to develop Gardai and PSNI Officers skills, in dealing with 'differences' and recognising the role of 'group think' and 'conformity' while acknowledging the unique characteristics of policing in Ireland, North and South. The remit of course extends beyond cultural / religious difference to include diversity related issues such as Ageism, Disability and Sexual Orientation.

Ireland ratified the **United Nations Convention on the Elimination of all forms of Racial Discrimination (UNCERD)** on 29 December 2000 and it entered into force on 28 January 2001. Ireland was one of the countries that opted for Article 14 which allows a right of individual petition to the United Nations, all local remedies having being exhausted.

At the UNCERD Committee session in March, 2005 Ireland entered into its first dialogue with the UNCERD Committee on its initial and second national report. Ireland is working closely with the UNCERD follow-up co-ordinator on the implementation of the recommendations in the UNCERD Committees Concluding Observations on the national report. In June, 2006 Ireland facilitated a visit by the UNCERD Follow-up Co-ordinator, the first of its kind, to facilitate dialogue and assistance in Ireland's implementation of UNCERD's recommendations in the Concluding Observations on Ireland's national report. The follow-up Co-ordinator met with Irish Government officials and NGOs as part of his visit and will report to the UNCERD Committee at its August 2006 session.

**What is Ireland doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?**

As regards the measures to prohibit the commission of a terrorist act, a person accused of incitement to commit a terrorist act or acts has available all of the protections required by the Irish Constitution and human rights instruments, both international and European.

A person accused of incitement to commit a terrorist act would not be treated differently in substance to a person charged with any other offence. Ireland is a party to the European Convention on Human Rights and is therefore required to meet the standards of the Convention in its treatment of persons charged or convicted of a criminal offence, including the offence of incitement to commit a terrorist act. Should an individual believe that those standards have not been met in the procedures adopted in his or her regard, then he or she may bring the matter to the European Court of Human Rights.

Turning to the denial of safe haven, a person refused entry to the State can seek judicial review of the decision and a court will then look at the decision to verify that it was made within proper legal

authority, that the person concerned was accorded procedural fairness, that the decision was reasonable, that it was compatible with human rights law, that it was proportionate and did not breach any legitimate expectation and that reasons had been given for the decision.

A person seeking asylum in the State would also be entitled to due process and would be entitled to seek judicial review as described above if refused asylum. This would also apply to a person who is being excluded from the definition of "refugee" on the grounds that there are serious reasons for considering that he or she has committed a serious non-political crime outside the State prior to entering the State or has been guilty of acts contrary to the purposes and principles of the United Nations, e.g. who has been guilty of acts covered by Resolution 1624 (2005) and to a person who is being refused a declaration of refugee status because this is considered necessary in the interests of national security or public policy. A refugee in respect of whom the declaration that he or she is a refugee is being withdrawn is entitled to due process, including access to a court, and would also be entitled to seek judicial review as described above.

A refugee or person seeking asylum will not be expelled or returned to a place where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. No person will be expelled, returned or extradited from the State to a place where there are substantial grounds for believing that he would be in danger of being subjected to torture as set out in the Convention against Torture of 1985 and as required by the European Convention on Human Rights.

As regards paragraph 2 and 3 of the UNSCR the European Convention on Human Rights has now been incorporated into Irish law in so far as (a) a court may declare a particular domestic provision or rule of law to be incompatible with the Convention whereupon the matter will then have to be considered by the Legislature and (b) in interpreting and applying any statutory provision or rule of law Irish courts are required, in so far as is possible and subject to the rules of law relating to interpretation and application of statutes, to do so in a manner compatible with the State's obligations under the Convention.